REPORT BY THE

AUDITOR GENERAL

OF CALIFORNIA

A REVIEW OF THE CALIFORNIA AUTHORITY OF RACING FAIRS' PROCUREMENT OF GOODS AND SERVICES FOR SIMULCASTING

P-938

FEBRUARY 1990

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February 12, 1990

P-938

Honorable Elihu M. Harris, Chairman
Members, Joint Legislative
Audit Committee
State Capital, Room 2148
Sacramento, California 95814

Dear Mr. Chairman and Members:

We reviewed the procedures used in 17 instances by the California Authority of Racing Fairs (CARF) for selecting vendors and for procuring simulcasting equipment to operate the satellite wagering system at 19 fairs. We determined that, in 12 instances, the CARF did not follow all of its competitive bidding procedures; in the remaining 5 instances, the CARF was not required to follow these procedures. In addition, the CARF did not follow its competitive procedures for three of the seven agreements in effect in October 1989 for simulcasting services at fairs. Although the CARF did not follow all of its procedures for the procurement of simulcasting equipment, our survey of the prices for certain types of television monitors indicated that the CARF's prices for the same types of television monitors were competitive. In addition, we identified one instance of weak internal controls: the CARF paid a vendor for television monitors for one fair before it had received adequate documentation from the fair accounting for all the monitors.

BACKGROUND

To conduct simulcasting, or satellite wagering, a host racing facility transmits an audiovisual signal of its races, via satellite, to guest facilities around the State. The guest facilities collect bets that are combined with the parimutuel wagering pool at the host facility.[1] California racing associations began simulcasting in

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[1]Parimutuel wagering is a system of betting on races in which those with winning bets share the total stakes minus a percentage for the management.

1985. According to the 1988 California Horse Racing Board annual report, by 1988 the total amount bet off-track at satellite wagering facilities had reached approximately $789 million, almost 30 percent of parimutuel betting on horse racing in California.

The California Horse Racing Board regulates all horse racing meetings that conduct parimutuel wagering in California. Its responsibilities include the supervision and regulation of satellite wagering.

The CARF manages simulcasting operations at certain fairs. Formed in 1986 as a result of a joint powers agreement between the California Department of Food and Agriculture, two counties, and several fairs, the CARF's primary purpose is to provide a central administration for horse racing and satellite wagering interests of its members. The CARF has competitive bidding procedures approved by the Department of General Services. The CARF's executive director derives his authority to administer satellite wagering at racing fairs from the CARF's board of directors.

The CARF receives funds from several sources. Until September 29, 1989, it collected 6 percent of the satellite wagering pool to pay for simulcast operating expenses. These include expenses related to the transmission and decoding of audiovisual signals and wagering data, the costs of totalisator equipment for accumulating bets, the parimutuel labor and equipment charges, and the CARF's labor and overhead costs in administering the satellite wagering program. These expenses do not include simulcasting equipment such as satellite receiving dishes and television monitors or screens. If expenses were less than the 6 percent collected, the CARF returned the difference to the fair to be divided as required by law. An amendment to the law now allows organizations administering simulcasts for fairs to be paid for actual expenses. In 1988, actual simulcasting operating expenses were just over $2 million, approximately 3.6 percent of the total satellite wagering pool for the five fairs at which the CARF paid the simulcast operating expenses. The CARF also receives funds from the Division of Fairs and Expositions of the Department of Food and Agriculture for the procurement of simulcasting equipment. As of August 1989, the CARF spent approximately $1 million of these state funds on simulcasting equipment for fairs.

SCOPE AND METHODOLOGY

The main purpose of our audit was to review the process by which the CARF procures services and equipment for the operation of the satellite

wagering system at fairs. We also reviewed the expenditures related to the operation of the satellite wagering system. For a detailed methodology, refer to the attachment to this letter.

THE CARF DID NOT FOLLOW ALL COMPETITIVE PROCUREMENT PROCEDURES IN THE PURCHASE OF SIMULCAST EQUIPMENT AND SERVICES

The CARF's procurement procedures, which have been approved by the Department of General Services, require that all agreements or purchase orders for goods and services valued at more than $10,000 and procured through a request for proposal (RFP) be approved by the CARF board of directors and follow formal bidding procedures. These procedures include requirements that (1) the CARF's executive director advertise in at least one newspaper and any appropriate trade journal, (2) an evaluation committee evaluate and score the proposals using a method specified in the RFP, and (3) all agreements be formal written agreements made by the executive director on behalf of the CARF.

Circumvention of the Competitive Bidding Process

The Los Angeles County Fair and the Fresno Fair selected vendors to provide television monitors but did not go through formal competitive bidding procedures in selecting these vendors. In addition, the CARF paid the television vendors for both of these fairs without going through its competitive bidding process. The Fresno Fair reimbursed the CARF for this expense. The CARF used funds it received from the Division of Fairs and Expositions to pay the vendors for the Los Angles County Fair.

The Los Angeles County Fair decided to purchase 101 used 25-inch television monitors from a vendor for a price of $400 per monitor. In May 1988, the CARF paid this vendor $40,400 for these monitors using funds from the Division of Fairs and Expositions but did not follow its required competitive bidding procedures. We also determined that the CARF had purchased for the Los Angeles County Fair a total of 90 nine-inch television monitors for $19,984.71 without calling for bids. Thus, the CARF purchased a total of $60,384.71 worth of television monitors for the Los Angeles County Fair without going through its competitive bidding procedures.

Since the Fresno Fair is a state entity, it is subject to the Fairs Administrative Manual of the Division of Fairs and Expositions,

Department of Food and Agriculture. This manual includes requirements that the procurement of all goods valued at more than $5,000 be competitively bid by sealed bid procedures through the Office of Procurement of the Department of General Services. The manual also requires that the procurement be approved by the Division of Fairs and Expositions.

In April 1987, the CARF paid a vendor approximately $29,000 for television monitors for the Fresno Fair without going through its competitive bidding process. The Fresno Fair obtained three local bids but did not follow all of the competitive procurement procedures required by the Fairs Administrative Manual.

In another instance, the Fresno Fair selected a vendor to provide television monitors for satellite wagering, asked the CARF in June 1987 to pay the vendor, and sent the CARF a check for the $27,093.60 expenditure with funds from the Division of Fairs and Expositions. The CARF paid this vendor without calling for bids. The assistant manager at the Fresno Fair explained that reimbursing the CARF for a purchase that exceeded $5,000 was more convenient than going through the lengthy process of procurement through the Office of Procurement of the Department of General Services. Thus, the CARF purchased television monitors worth a total of approximately $56,000 for the Fresno Fair without going through its competitive bidding procedures.

<u>Lack of Advertising</u>

In 12 of 17 instances, the CARF failed to advertise its RFP for the procurement of simulcasting equipment, including satellite receiving antennas and television monitors. Instead, the CARF mailed the RFP to a minimum of 6 and a maximum of 23 vendors. The value of these procurements was approximately $825,000. The CARF received funds from the Division of Fairs and Expositions to pay for all these procurements except those for the Fresno Fair and the California State Fair. For these two fairs, the CARF sought reimbursement from the fairs. In the remaining 5 instances, the CARF was not required to advertise.

In addition, the CARF did not advertise the RFP in a newspaper or trade journal for three of the seven agreements that were in effect in October 1989 for simulcasting services, including the lease of satellite time, the production of the audiovisual signal, and the satellite transmission of that signal. The CARF mailed the RFPs to at least 17 vendors on its lists for these types of services. We identified one vendor who was not on the CARF's vendor list for two of

these services but who happened to see a press release on the subject, obtained an RFP, and submitted a responsible bid. However, a press release is not considered an advertisement.

The executive director of the CARF has stated that, since May 1989, the CARF has called for bids on all contracts for goods and services valued at over $10,000 by advertising in at least one newspaper and any appropriate trade publication.

Lack of Documentation of
the Evaluation of RFPs

In procuring simulcasting equipment for 12 of 13 RFPs, the CARF did not document the evaluation and final scores of the proposals it received using the method specified in the RFP; for the remaining RFP, documentation was not required.[2] Each RFP stated that, in addition to equipment cost, bid proposals would be evaluated on the basis of other factors such as adherence to bid specifications and the cost of service calls. The CARF had summaries of cost comparisons for 11 of these 13 RFPs. We did limited testing of three of these summaries. For the summaries we tested, the CARF appeared to have awarded the procurement to the lowest bid. However, the CARF did not maintain any documentation to show that final evaluations were based on all the factors specified in the RFP.

Lack of CARF Board Approval

The executive director of the CARF stated that the CARF did not maintain documentation to show that its board of directors had approved the procurement of simulcasting equipment in 7 of the 17 instances. In 5 of the remaining 10 instances, CARF board approval was not required. In addition, for two of the agreements that were in effect in October 1989 for simulcasting services, the executive director of the CARF could not provide us with the minutes of meetings at which the CARF board of directors had approved the award of the procurement.

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[2]We reviewed 17 instances of procurement by the CARF. Of these, 4 instances involved emergency procurements. According to CARF procedures, emergency procurements do not require RFPs.

Lack of Formal Agreements

The CARF failed to negotiate a formal written agreement in 12 of the 17 instances. In the remaining 5 instances, a formal agreement was not required. The CARF mailed letters to vendors informing them that their bid proposal had been selected; it did not, however, execute formal written agreements or contracts with these vendors. In addition, the CARF did not negotiate a formal written agreement with the vendor providing satellite time until October 27, 1989, four months after this vendor began rendering services to the CARF.

The CARF obtained Competitive Prices

Although the CARF did not follow all of its competitive procedures in procuring television monitors, our survey of the prices for certain types of television monitors indicated that the CARF's prices for the same types of monitors were competitive. We called three independent vendors and matched their prices with the CARF's price during a comparable time period and found that the CARF's price was competitive. We also compared the price the Fresno Fair paid for certain 60-inch television monitors in April 1989 with the CARF's price during the same period and found that the CARF's price was 4.6 percent lower. In addition, the controller of the Sonoma County Fair stated that he compared the CARF's prices with a local vendor's and determined that the CARF's prices were 10 to 15 percent lower. The president of the Los Angeles County Fair Association also stated that the prices the CARF paid for television monitors were very competitive.

WEAKNESS IN INTERNAL CONTROL AT THE CARF

As we pointed out earlier, in 1988, the Los Angeles County Fair acquired 101 televisions that the CARF paid for with funds provided by the Division of Fairs and Expositions. According to the vice-president for administration at the Los Angles County Fair, the fair did not take an inventory of all televisions it received from the vendor. The executive director of the CARF approved the payment of the invoice and paid the vendor for the televisions even though it had not received adequate documentation from the Los Angeles County Fair accounting for all of the televisions.

When we conducted an inventory of televisions at the Los Angeles County Fair, we determined that 15 of the 101 televisions the CARF paid for, with funds from the Division of Fairs and Expositions, valued at $6,000, could not be accounted for. The vice-president for

administration stated that since an inventory had not been taken at the time of purchase, he did not know if the televisions were missing or if they had never been received. He stated that the Los Angeles County Fair staff had been very busy at the time the purchase was made and could not take an inventory of the television monitors. The executive director of the CARF stated that he approved the payment of the vendor's invoice because he had assumed that the Los Angeles County Fair had taken an inventory and that all of the television monitors were in place. The executive director added that, because the monitors were already mounted and connected, the cost of $400 per monitor was appropriate. However, sound internal control practices dictate that the CARF ensure that the goods it pays for are actually received by member fairs and that these fairs maintain an inventory of these goods.

CONCLUSION

The California Authority of Racing Fairs did not follow all of its competitive bidding procedures for the procurement of equipment and services for simulcasting. The CARF did not always call for bids, did not advertise all of its RFPs, and did not maintain documentation of board approval in all instances. However, although the CARF did not follow all of its procedures, our survey of the prices for certain types of television monitors indicated that the CARF's prices for the same types of television monitors were competitive. In addition, because the CARF paid for television monitors ordered by the Los Angeles County Fair before verifying that they had been received, it may have overpaid the vendor by $6,000. Finally, the Fresno Fair bypassed state competitive bidding requirements by having the CARF pay vendors that it had selected.

RECOMMENDATIONS

The California Authority of Racing Fairs should do the following:

- Adhere to its competitive bidding procedures for all the equipment and services that it procures on behalf of fairs;

- Before paying for goods that have been ordered by fairs, verify that all goods have been received; and

- Ensure that it is not used by fairs to circumvent their state-mandated procurement requirements.

In addition, the Department of Food and Agriculture should ensure that those fairs under its jurisdiction comply with the requirement that goods and services valued at more than $5,000 be procured through procedures described in the Fairs Administrative Manual.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this letter.

Respectfully submitted,

Kurt R. Sjoberg

KURT R. SJOBERG
Acting Auditor General

Attachment

Responses:

Response from the California Authority of Racing Fairs

Response from the California Horse Racing Board

Response from the Department of Food and Agriculture

DETAILED SCOPE AND METHODOLOGY

The main purpose of our audit was to review the process by which the CARF procures services and equipment for the operation of the satellite wagering system at fairs. We also reviewed the expenditures related to the operation of the satellite wagering system. We did not review the Division of Fairs and Expositions' funding allocations to the CARF.

We reviewed the California Horse Racing Board's compliance with laws relating to satellite wagering and interviewed key officials. We also attempted to ascertain whether horsemen's organizations participating in racing fairs are represented as stipulated in Section 19596.4(c) of the California Business and Professions Code. We determined the organizational structure of the CARF and the Northern California Satellite Wagering Systems Board (NCSWSB), reviewed the agreements between the CARF and horsemen's organizations, and requested an opinion from the legislative counsel. According to this opinion, the NCSWSB provides representation within the context of Section 19596.4(c) of the California Business and Professions Code.

To determine if the set-aside for stabling and vanning in the southern region exceeds actual expenditures, we reviewed the annual report and interviewed key officials at the Southern California Off-Track Wagering, Incorporated, and at the California Horse Racing Board. We determined that officials had realized that the set-aside exceeded actual expenditures and, therefore, effective December 26, 1989, the board has reduced the set-aside to 0.58 percent of the satellite wagering pool.

To determine whether the CARF went through a competitive bidding process for the procurement of equipment and services for the operation of the satellite wagering system, we obtained a list of agreements from the CARF, reviewed the CARF's records, and interviewed its executive director.

To determine whether the CARF's expenditures related to the operation of the satellite wagering system in 1988 were appropriate, we reviewed a sample of approximately 70 transactions, including supporting documentation, that accounted for approximately 20 percent of the total operating expenditures. For these transactions, we determined that the expenditures were appropriate and the supporting documentation adequate.

We also determined if the CARF's actual operating expenditures in 1988 for the five fairs were less than the 6 percent of the total satellite wagering pool allowed by law. Also, for those fairs we visited whose operating expenses were less than 6 percent, we determined how the fairs distributed the difference between the 6 percent ceiling and the actual expenditures; we determined that the fairs had made the distribution in accordance with their agreements with horsemen's organizations.

To determine how the CARF allocates the promotion funds for simulcasting, we reviewed the CARF's 1988 summary of revenues and expenses. We confirmed that the simulcasting promotion allocations were based on satellite wagering pools.

To determine whether the prices obtained by the CARF for television monitors were competitive, we surveyed three independent vendors. We also conducted a physical inventory of television monitors at certain fairs that had procured simulcasting equipment through the CARF. We selected Cal Expo, the Los Angeles County Fair, the San Joaquin County Fair, the Fresno Fair, and the Sonoma County Fair. We matched vendors' invoices we obtained from the CARF with the television monitors at the fairs.

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California Authority of Racing Fairs

February 1, 1990

Office of the Auditor General
660 J Street, Suite 300
Sacramento, California 95814

Dear Sir:

This is to acknowledge that I have received and reviewed a draft copy of the report prepared related to the procedures of the California Authority of Racing Fairs. Following the results of the exit conference held with the representatives of the Office of the Auditor General, there are no additional comments that are determined to be necessary by the California Authority of Racing Fairs.

We believe that the review process was conducted by the representatives of the Auditor General in an efficient and professional manner. The final report will be submitted to the Board of Directors of the California Authority of Racing Fairs for final review. Any additional comment by the Board shall be forthcoming after the regular scheduled meeting of February 21, 1990.

Sincerely,

RPCain

Richard P. Cain
Executive Director

cc: Deputy Director, Division of Fairs and Expositions
President, California Authority of Racing Fairs
Operations Subcommittee, California Authority of Racing Fairs

Memorandum

To : Rick Cain, Executive Director
California Authority of Racing Fairs

Date : December 15, 1989

Place :

From : Department of Food and Agriculture -1010 Hurley Way, Suite 200
Sacramento, CA 95825

Subject: Purchasing

From time to time, the Division of Fairs and Expositions allocates funds to CARF for the purpose of entering into contracts or purchasing goods for the benefit of fairs in this state. As of this date, the Division of Fairs and Expositions suggests that any such contracting or purchasing be in accordance with CARF's adopted procedures as approved by the Department of General Services on or about January 23, 1987. Any changes to these procedures, which are changes other than those contemplated by the document approved by the Department of General Services, should be submitted to the Division of Fairs and Expositions for approval before any such change is implemented.

Kim Myrman, Interim Assistant Director

Norm Towne, Horse Racing Consultant

cc: Sandhya Bhate
Bob Fox

SURNAME

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